

APPEAL NO. 041198
FILED JULY 6, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 15, 2004. The hearing officer resolved the disputed issues by determining that the appellant (claimant) did not sustain a compensable repetitive trauma injury with a date of injury of _____; that the claimant gave timely notice of the claimed injury to her employer; and that the claimant did not have disability. The claimant appeals the compensability and disability determinations. The respondent (carrier) urges affirmance of the hearing officer's decision. The timely notice determination has not been appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed.

Whether the claimant sustained a compensable repetitive trauma injury with a date of injury of _____, was a factual question for the hearing officer to resolve. The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). The date of injury for a repetitive trauma injury is the date the employee knew or should have known that the disease may be related to the employment (Section 408.007) and is not necessarily the date upon which the claimant receives a definitive diagnosis (Texas Workers' Compensation Commission Appeal No. 992783, decided January 26, 2000). Nothing in our review of the record indicates that the hearing officer's compensability determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). As the existence of a compensable injury is a prerequisite to a finding of disability (Section 401.011(16)), we similarly perceive no error in the determination that the claimant did not have disability.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **PACIFIC INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**PARKER W. RUSH
1445 ROSS AVENUE, SUITE 4200
DALLAS, TEXAS 75202-2812.**

Chris Cowan
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Margaret L. Turner
Appeals Judge